

GST dept. can't direct Customs authority to withhold refund & detain goods for entering wrong address in export document: HC

Facts of the case : Mobile Shoppe v. Union of India [2023] (Gujarat)

The petitioner was engaged in export of mobile phones on payment of IGST. It filed application for refund and refund was processed by the Customs Authorities. The GST department conducted search in the premises of petitioner and refund of IGST was contended as erroneous on ground of deficiency of documents. Thereafter, the department issued summons to the petitioner and requested Customs Authorities to detain the cargo of the petitioner which was pending clearance for export at the airport.

The petitioner filed writ petition and contended that proceedings for scrutiny of refund of IGST paid on export made were initiated by CGST officers even though proper officer for grant of refund would be Customs Authority. The department contended that at time of search by GST officers, e-way bill was not produced and address in e-way bill was different.

Decision of the case :

The Honorable High Court noted that no ambiguity was found in respect of export except wrong declaration of address in few export invoices/shipping bills. Moreover, the Court also noted that Customs authority is proper authority for taking up the issue in case of doubt regarding export goods and export cannot be disputed once e-way bill would be generated. In the instant case, show cause notice was not issued by the department so far. Therefore, it was held that the petitioner was entitled to refund along with interest when export has been permitted. The Court also directed department to finalise investigation within eight weeks.